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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>23 April 2010</u>.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1,3-10 & 14-20</u> is/are pending in the application.

  4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1,3-10 and 14-20</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a) ☒ All b) ☐ Some * c) ☐ None of:

  1. ☐ Certified copies of the priority documents have been received.

  2. ☐ Certified copies of the priority documents have been received in Application No. _____.

  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

  * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail. Date _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Status

1.   a) Claims 1, 3-10 and 14-20 are pending.

b) Claims 1, 5, 8 and 14 have been amended.

c) Claims 17-20 have been added.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.   **Claims 1, 3, 4 & 17 are rejected** under 35 U.S.C. 103(a) as being unpatentable

over Huberman (US Patent 5,826,244) in view of Kinney et al. (US Patent 7,249,085

B1, hereafter Kinney), Shoham et al. (US Patent 6, 285,989, hereafter Shoham), Odom

et al. (US Patent 6,058,379, hereafter Odom) and Koopersmith (US Pregrant

Publication 2001/0042002 A1).

Re. Claim 1, Huberman discloses a method for an auction brokerage service provided

by a computer server that resides between an information terminal of a user and auction

servers to perform brokerage operation for an auction. Huberman also discloses a

computer automated third party broker service for administering an auction process

between sellers and prospective customers (Abstract, II. 1-2). Huberman further

discloses multiple auctions (Col. 7, II. 12-15; Col. 18, II. 38-41) and communicating with

the customer's user information terminal to notify of the auction result information (Col.

3, I. 59 – Col. 4, I. 18).

Huberman does not explicitly disclose a method for:

- Selecting information of said auction servers suitable for the user's conditions from among stored information related to said auction servers, in response to a request from said information terminal;
- Auctioning of an item
- Transmitting an auction registration request in the name of the user to each of the auction servers at the auction sites, that have been selected by the user from among the selected auction servers at the selected auction sites to receive a notification that the an auctioned commodity of the user has been registered at the selected auction servers, the selected auction servers auctioning the auctioned commodity simultaneously at the selected auction sites to the plurality of buyers accessing the selected auction sites;
- Notifying said information terminal of the auction result information and outputting the auction result, wherein said auction servers are other brokerage computers which accept bids from a plurality of information terminals for the auctioned commodity.

However, Kinney discloses "enabling each individual bidder to view a comparison of submitted bids in their own context" (Abstract, ll. 7-9), i.e. each bidder sees the other bids in real time.

Kinney also discloses auctioning of an item (Col. 7, ll. 51-53, 64-67). Further, the ordinary practitioner would have seen the auctioning of an item as obvious since the auctioning of items has been widely publicized in school textbooks (e.g. the Hope Diamond's auction price) and Christie's auctioning of various items of art, diamonds, jewelry and other items had been widely publicized in the mass media for generations prior to applicant's invention.

Shoham discloses "multiple auctions simultaneously" (Col. 12, ll. 28-29), and the notification of the participant of the progress of a bid (Col. 14, ll. 11-16; Col. 14, l. 65 – Col. 15, l. 8; Col. 15, ll. 14-20).

Odom discloses multiple concurrent auctions (Col. 10, l. 10; Col. 10, l. 37 – Col. 11, l. 9). A preferred embodiment disclosed is in the trading of SEC listed stocks (i.e.

registered equities). This auction activity is taking place during normal business hours
simultaneously with auctioning of the same securities on one or more exchanges.
Koopersmith discloses a search server searching a data base of web site addresses for
web sites fitting a certain word definition. Such a search is likely to bring up a number of
qualified web sites, which are essentially contained in a server. Koopersmith's example
illustrates a search for suppliers of toasters (page 1, [0004]-ll. 8-16). It would have been
obvious to the practitioner that a similar automated search would have located servers
which offer commodity auction servers which meet the seller's commodity criteria.
Selecting information of said auction servers suitable for the user's conditions from
among stored information related to said auction servers, in response to a request from
said information terminal is implicit in Kinney, Shoham and Odom.

Transmitting an auction registration request in the name of the user to each of the
auction servers that have been selected by the user from among the selected auction
servers to receive a notification that an auctioned commodity of the user has been
registered at the auction servers is also implicit in Huberman, Kinney, Shoham and
Odom because the users implicitly are making these selections through their
participation and approval. Registration of a user is implicit in each auction reference
such as in Huberman and Shoham. It is obvious that registration information is
transmitted by the intermediary on behalf of the user to each auction related entity as
needed since this is part of the intermediary's service to benefit the user. It is also
obvious that the intermediary is acting in the name of the user.

Based on the above disclosures the ordinary practitioner of the art at the time of
Applicant's invention would have found it obvious that servers would be at the auction
sites selected by the user, that commodities being auctioned would be registered at the
selected auction servers, and, from Shoham above, that selected items could be
auctioned simultaneous at the selected auction servers.

Hence, the disclosures by Huberman Kinney, Shoham, Odom and Koopersmith,
combined with the well known practices cited above, would have made it obvious to the
ordinary practitioner to

- selecting information of said auction servers suitable for the user's conditions from among stored information related to said auction servers, in response to a request from said information terminal;

- transmitting an auction registration request in the name of the user to each of the selected auction servers to receive a notification that the commodity item of the user has been registered at the selected auction servers, the selected auction servers auctioning the commodity item simultaneously to the plurality of buyers accessing the selected auction servers sites; and

- notifying said information terminal of the auction result of the item and outputting the auction result,

- wherein said selected auction servers are other brokerage computers which accept bids from a plurality of information terminals for the commodity item.

Neither Huberman, Kinney, Shoham, Odom, or Koopersmith explicitly disclose a method for auction brokerage service further comprising a step of "gathering trade information of how the commodity item has been bid for at the selected auction servers and tendering to the other selected auction servers the highest tendered price of the bids in the name of a substitute in order to adjust the bid prices to the highest price over all the selected auction sites servers". However, Applicant has chosen to define the notification step in the specification as meaning the option of "Specifically, the auction site monitoring section 242 may place …. Or it may alter the lower limit of the desired price of such commodity into the highest tendered price in the name of the user" (Specification, page 15, ll. 13-23). The option of changing an offer price such as the minimum acceptable price in an auction was well known at the time of Applicant's invention. This well known and well established practice not only has a basis as an old practice prior to the consummation of a transaction, but it is also embedded in US law. An offer may be changed or withdrawn at any time before it is legally accepted. Therefore, it would have been obvious to an ordinary practitioner at the time of Applicant's invention to have combined the disclosures of Huberman with the

disclosures of Kinney, Shoham, Odom, Koopersmith and well known practices for the purpose of gathering trade information of how the auctioned commodity has been bid for at the selected auction servers and notifying the other selected auction servers and notifying the other selected auction sites of the highest tendered price of the bids in order to adjust the bid prices to the highest price over all the auction sites. As a result, it would have been obvious to an ordinary practitioner at the time of Applicant's invention to have combined the disclosures of Huberman with the disclosures of Kinney, Shoham, Odom and Koopersmith and the practitioner's own knowledge for the purpose of providing computer automated third party multi auction brokerage services for the auctioning of a item for a client through a computer link, motivated by an opportunity to establish better prices for the sale of commodities through a more efficient auction process through electronically networked, highly automated, brokered auctions (Huberman, Col. 2, ll. 50-51, 55-56).

Re. Claim 3, neither Huberman, Kinney, Shoham, Odom, or Koopersmith explicitly disclose a step of requesting the selected auction servers to alter the desired price specified by the user according to the user's instruction when the computer has found that there is no bid for the commodity at any relevant auction sites by the date specified by the user. The practice of changing an offer price such as by reducing the offer price when there have been no offers at a given price was obvious to the ordinary practitioner because it was well known in the art of auctions and in the basic selling art in cases when an item was confirmed to have been legitimately exposed to prospective buyers ("where the commodity had been registered (in an auction) by the date specified by the user"). Therefore, it would have been obvious to an ordinary practitioner at the time of Applicant's invention to have combined the disclosures of Huberman with the disclosures of Kinney, Shoham, Odom, Koopersmith and the practitioner's own knowledge for the purpose of operating a method for an auction brokerage service, motivated by an opportunity to establish better prices for the sale of commodities through a more efficient auction process through electronically networked, highly automated, brokered auctions (Huberman, Col. 2, ll. 50-51, 55-56).

Re. Claim 4, neither Huberman, Kinney, Shoham, Odom, or Koopersmith explicitly disclose a method for notifying the other auction sites of canceling the registration of the commodity by an auction site with which the trade has concluded. Removing an item from being offered for sale after a sale has been made wa a logical step to take, and would have been obvious t oteh ordinary practitioner because it was a well established practice in the art at the time of Applicant's invention. Therefore, it would have been obvious to an ordinary practitioner at the time of Applicant's invention to have combined the disclosures of Huberman with the disclosures of Kinney, Shoham, Odom, Koopersmith and the practitioner's own knowledge for the purpose of notifying the other auction sites of canceling the registration of the commodity by an auction site with which the trade has concluded, motivated by an opportunity to establish better prices for the sale of commodities through a more efficient auction process through electronically networked, highly automated, brokered auctions (Huberman, Col. 2, ll. 50-51, 55-56).

Re. Claim 17, Huberman does not explicitly disclose wherein said selected auction servers are other brokerage computers each of which accepts a request for processing for the auctioned item owned by the user from a corresponding information terminal of another user. However, Shoham discloses "multiple auctions simultaneously" (Col. 12, ll. 28-29), and Odom discloses wherein said selected auction servers are other brokerage computers each of which accepts a request for processing for the auctioned item owned by the user from a corresponding information terminal of another user. (Col. 10, l. 10; Col. 10, l. 37 – Col. 11, l. 9). Therefore, it would have been obvious to an ordinary practitioner at the time of Applicant's invention to have combined the disclosures of Huberman with the disclosures of Kinney, Shoham, Odom, Koopersmith and the practitioner's own knowledge to have developed a method for an auction brokerage service provided by a computer server that resides between an information terminal of a user and auction servers, motivated by an opportunity to establish better prices for the sale of commodities through a more efficient auction process through electronically networked, highly automated, brokered auctions (Huberman, Col. 2, ll. 50-51, 55-56).

3.   **Claims 5-10, 14, 18-20 are rejected** under 35 U.S.C. 103(a) as being
unpatentable over Huberman in view of Kinney, Shoham, Odom and Koopersmith

 Re. Claims 5, 8 & 14, the rejection of claim 1 states what Huberman, Kinney, Shoham,
Odom and Koopersmith disclose regarding auctioning services. Huberman does not
explicitly disclose the detailed specifics of a method and a computer used in executing
by a brokerage computer residing between a user computer of an auction user and
auction computers of auction organizers to perform brokerage operations for auctions,
the method and computer and systems means comprising the steps of:

(a) receiving information about the auctioned commodity and at least one specified
auction organizer from the user computer;

(b) sending the information about the auctioned commodity in the name of the user to
the auction computers of the specified auction organizers, the auction computers
auctioninq the auctioned commodity simultaneously to the plurality of buyers accessinq
the specified auction orqanizers;

(c) gathering trade information of how the auctioned commodity has been bid for at the
specified auction organizers;

(d) tendering to the other auction computers of the specified auction organizers the
highest bid price of the bid prices in the name of a substitute in order to adjust the bid
prices to the highest price over all the auction computers of the specified auction
organizers; and

(e) taking an action in accordance with conditions specified by the user computer if the
brokerage computer has found that there is not bid for the commodity at any auction
computers of the specified auction organizers by the date specified by the user
including notifying said user computer of the auction result information and out putting
the auction result, wherein said auction computers are other brokerage computers of
the specified auction organizers which accept bids from a plurality of other computers
for the auctioned commodity.

However, at the time of Applicant's invention, please refer to the rejection of claim 1 for
rejection background fundamentals regarding a method executed by a brokerage

computer residing between a user computer of an auction user and auction computers of auction organizers to perform brokerage operations for auctions of a item. Further,

(1) Use of third party service providers or brokers performed through computer automated methods and means was well known (Huberman, Col. 1, ll. 35-40).

(2) Offering of commodities on multiple parallel auction services was well known (See the rejection of claim 1).

(3) The various tasks to be performed by a third party service provider for a customer within the scope of the assignment, including communications tasks and other steps, was implicit and obvious to the performance of a third party service.

(4) It also was obvious that auction organizers and the web sites and web servers they are using are interchangeable to a user in such auctions since the web sites and related servers are merely inert apparatus which operate according to the programming instructions of their organizers and the operators who may be working in their employ. Thus, the auction sites represent their organizers and can be considered interchangeable for purposes of the limitations in these claimed inventions..

In this case, an ordinary practitioner of the art at the time of Applicant's invention would have found it obvious to combine the disclosures of Huberman with Kinney, Shoham, Odom, Koopersmith and the practitioner's own knowledge for the purpose of providing the service of an auction brokerage operation for a user customer, motivated by an opportunity to establish better prices for the sale of commodities through a more efficient auction process through electronically networked, highly automated, brokered auctions (Huberman, Col. 2, ll. 50-51, 55-56).

Re. Claims 6 & 9, Huberman does not explicitly disclose the detailed specifics of a method and means for execution comprising a step of requesting the auction organizers to alter the desired price specified by the auction user according to the instruction of the auction user if no bid has been found by the specified date. See the rejection of claim 5 regarding auction organizers. However, it would have been obvious to an ordinary practitioner at the time of Applicant's invention to have notify the computing environment at the side of said auction organizers of alternation of the desired price according to the instruction of the auction user if no buyer has been found for said auctioned commodity

at all of said auction organizers by the date specified by the auction user for the reasons stated in the rejection of claim 3. Therefore, an ordinary practitioner of the art at the time of Applicant's invention would have found it obvious to combine the disclosures of Huberman with the disclosures of Huberman with Kinney, Shoham, Odom, Koopersmith and the practitioner's own knowledge for the purpose of requesting the auction sites to alter the desired price specified by the user according to the instruction of the auction user if no bid has been found by the specified date, motivated by an opportunity to establish better prices for the sale of commodities through a more efficient auction process through electronically networked, highly automated, brokered auctions (Huberman, Col. 2, ll. 50-51, 55-56).

Re. Claims 7 & 10, Huberman does not explicitly disclose the detailed specifics of a method comprising a step of notifying the other auction sites of canceling the registration of the item by an auction site with which the trade has concluded. However, it would have been obvious to an ordinary practitioner at the time of Applicant's invention to have notify the computing environment at the side of said auction organizers of cancellation of registration when any buyer has been found at any of said auction organizers and the auction is terminated for the reasons stated in the rejection of claim 4, motivated by an opportunity to establish better prices for the sale of commodities through a more efficient auction process through electronically networked, highly automated, brokered auctions (Huberman, Col. 2, ll. 50-51, 55-56).

Re. Claim 15, neither Huberman, Kinney, Shoham, Odom, or Koopersmith explicitly disclose a step wherein the brokerage server further comprises means for requesting the auction organizers to alter the desired price specified by the auction user according to the instruction of the auction user if no bid has been found by the specified date. The practice of changing an offer price such as by reducing the offer price when there have been no offers at a given price was obvious to the ordinary practitioner because it was well known in the art of auctions and in the basic selling art in cases when an item was confirmed to have been legitimately exposed to prospective buyers ("where the commodity had been registered (in an auction) by the date specified by the user"). Therefore, it would have been obvious to an ordinary practitioner at the time of

Applicant's invention to have combined the disclosures of Huberman with the disclosures of Kinney, Shoham, Odom, Koopersmith and the practitioner's own knowledge for the purpose of operating a method for an auction brokerage service, motivated by an opportunity to establish better prices for the sale of commodities through a more efficient auction process through electronically networked, highly automated, brokered auctions (Huberman, Col. 2, ll. 50-51, 55-56).

Re. Claim 16, neither Huberman, Kinney, Shoham, Odom, or Koopersmith explicitly disclose wherein the brokerage server further comprises means for notifying the other specified auction organizers of canceling the registration of the auctioned item owned by the user by a specified auction organizer with which the trade has concluded. Removing an item from being offered for sale after a sale has been made was a logical step to take, and would have been obvious to the ordinary practitioner because it was a well established practice in the art at the time of Applicant's invention. Therefore, it would have been obvious to an ordinary practitioner at the time of Applicant's invention to have combined the disclosures of Huberman with the disclosures of Kinney, Shoham, Odom, Koopersmith and the practitioner's own knowledge for the purpose of notifying the other auction sites of canceling the registration of the commodity by an auction site with which the trade has concluded, motivated by an opportunity to establish better prices for the sale of commodities through a more efficient auction process through electronically networked, highly automated, brokered auctions (Huberman, Col. 2, ll. 50-51, 55-56).

Re. Claims 18-20, none of Huberman, Kinney and Koopersmith explicitly disclose wherein said selected auction servers are other brokerage computers each of which accepts a request for processing for the auctioned item owned by the user from a corresponding information terminal of another user. However, Shoham discloses "multiple auctions simultaneously" (Col. 12, ll. 28-29), and Odom discloses wherein said selected auction servers are other brokerage computers each of which accepts a request for processing for the auctioned item owned by the user from a corresponding information terminal of another user. (Col. 10, l. 10; Col. 10, l. 37 – Col. 11, l. 9). Therefore, it would have been obvious to an ordinary practitioner at the time of

Applicant's invention to combined the disclosures of Huberman, Kinney, Koopersmith, Shoham and Odom with his own knowledge to develop a method and a computer for an auction brokerage service provided by a computer server that resides between an information terminal of a user and auction servers, motivated by an opportunity to establish better prices for the sale of commodities through a more efficient auction process through electronically networked, highly automated, brokered auctions (Huberman, Col. 2, ll. 50-51, 55-56).

Response to Arguments

4.   Applicant has presented no arguments in the response received on April 23, 2010 regarding claims 1 and 3-10, and 14-20, except to state that the newly submitted amendments and new claims have placed the claims in condition for allowance. The amended claims and new claims have been fully considered but they are not persuasive regarding the allowability of claims 1 and 3-10, and 14-20 as stated in the above rejections.

Conclusion

5.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the
Examiner should be directed to Siegfried Chencinski whose telephone number is
(571)272-6792. The Examiner can normally be reached Monday through Friday, 9am to
6pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's
supervisor, Charles Kyle, can be reached on (571) 272-6746.

Information regarding the status of an application may be obtained from the
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Any response to this action should be mailed to:

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"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to the address found on the above
USPTO web site in Alexandria, VA.

SEC
Art Unit 3695
July 3, 2010

/Harish T Dass/
Primary Examiner, Art Unit 3695